

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 39/AIL/Lab./J/2011, dated 25th February 2011)

NOTIFICATION

Whereas, the Award in I. D.No.24/2008, dated 19-11-2010 of the Labour Court, Puducherry in respect of the industrial dispute raised by Thiru K. Senthamaraikannan against the management of M/s. Arupadai Veedu Medical College and Hospital, Puducherry over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G. O. Ms. No. 20/91/Lab/L, dated 23-5-1991 it is hereby directed by Secretary to Government (Labour) that the said award shall be published in the official gazette, Puducherry.

(By order)

G. MALAR KANNAN,
Joint Secretary to Government (Labour).

BEFORE THE LABOUR COURT AT PONDICHERRY

Present : Thiru T. MOHANDASS, M.A. M.L.,
II Additional District Judge,
Presiding Officer, Labour Court.

Friday, the 19th day of November 2010

I.D. No. 24/2008

K. Senthamaraikannan,
25, Athiyaman Street, K.K. Nagar,
Vannarapalayam, Cuddalore. . . Petitioner

Vs.

The Managing Director,
Arupadai Veedu Medical College
and Hospital, Pondicherry. . . Respondent

This industrial dispute coming on 11-11-2010 for final hearing before me in the presence of Mrs. R. Sudha Sankar, advocate for the petitioner, Thiru R. Ilancheliyan and R. Thilagavathi, advocates for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this court passed the following:

AWARD

This industrial dispute arises out of the reference made by the Labour Department, Government of Pondicherry *vide* G. O. Rt. No.118/AIL/Lab./J/2008, dated 4-7-2008 for adjudicating the following :—

(1) Whether the dispute raised by Thiru K. Senthamaraikannan against the management of M/s. Arupadai Veedu Medical College and Hospital, Puducherry over his non-employment is justified or not?

(2) To what relief, the petitioner Thiru K. Senthamaraikannan is entitled to?

(3) To compute the relief, if any, awarded in terms of money if it can be so computed?

2. The petitioner, in his claim statement, has averred as follows:

The petitioner was the employee under the respondent institution. On 18-9-2007 the respondent institution terminated him from service. The respondent institution framed false charges against him and directed him to submit the explanation. Without accepting the explanation submitted by the petitioner, the respondent institution conducted the domestic enquiry, which was not fair and proper. One Vijayaragavan has not given any complaint against him, as stated by the respondent and it is one Thillainathan, who used to send letter containing false allegation, has prepared the alleged letter with false allegation against him. The Enquiry Officer has conducted the enquiry in favour of the management. Further the said Vijayaraghavan has given in writing to the respondent institution that he has not given any money to the petitioner as bribe. The respondent institution has framed false complaint against the petitioner that he received a sum of ₹ 8,000 from the patient without any authority or knowledge of the respondent, but disappeared on the day fixed for surgery. The Enquiry Officer has not considered the letter, dated 8-3-2007 given by the petitioner in which he has stated that he received the amount from one Vijayaraghavan for security reason. If the respondent institution enquire the person, who has given complaint, he would have stated that there is no fault on the petitioner and one Thillainathan only prepared the false complaint against him. The enquiry conducted by the Enquiry Officer is not fair and proper and hence, this industrial dispute is filed to reinstatement with full back wages and other attendant benefits.

3. In the counter statement, the respondent has stated as follows:—

The petitioner was employed as a Lab. Technician in the respondent institution. On 22-2-2007 when he was on duty, received a sum of ₹ 8,000 from one patient admitted for surgery without any authority and knowledge of the respondent and upon quarrel and altercations between the petitioner and the relatives of the patient within the premises, it was stated that the petitioner had received a sum of ₹ 8,000 assuring

treatment but disappeared on the day fixed for surgery. When the matter was enquired, he gave some evasive reply for receiving the money. Therefore, the respondent initiated disciplinary proceeding. The petitioner as such accepted for having received the money from the patient and however gave hypothetical and evasive explanations. In his explanation, dated 3-3-2007 he has stated that he had returned ₹ 4,000 to the mother of the patient and the balance of ₹ 4,000 was given as cheque through an advocate known to him. However, during the enquiry, he contradicted his statement and stated that he was keeping the amount in two lockers for security reasons and paid ₹ 4,000 initially and ₹ 4,000 subsequently. Since the petitioner's reply both for accepting money from the patient and in returning the money belatedly in installments proved, the real intention of the petitioner in misusing his position and receiving the money from the public, who come to the hospital for treatment. Therefore, based on the finding in the enquiry, his service was terminated. The termination of the petitioner is well within the parameter of law and the punishment imposed against him is in proportion to the misconduct committed by him. Hence, he prays for dismissal of the industrial dispute.

4. On the side of the petitioner. PW1 was examined and no exhibit was marked. On the side of the respondent, RW.1 was examined and Ex.R1 to Ex.R10 were marked.

5. *The point for determination is :*

Whether the petitioner can be considered for reinstatement in service with back wages?

6. *On the point :*

The contention of the petitioner is that he has received a sum of ₹ 8,000 from one Vijayaraghavan, who is known to him, for security purpose and the said amount has been returned to him in two instalments. He further stated that the said Vijayaraghavan has not given any complaint against him and it is one Thillainathan, who prepared the alleged letter with false allegation against him. He further submitted that without accepting the explanation given by him to the respondent, the respondent conducted the domestic enquiry, which is not fair and proper.

7. On the other hand, the contention of the respondent is that the petitioner was employed as a Lab. Technician in the respondent institution. On 22-2-2007 when he was on duty, received a sum of ₹ 8,000 from one patient admitted for surgery without any authority and knowledge of the respondent and upon quarrel and altercations between the petitioner and the relatives of the patient within the premises, it was stated that the petitioner had received a sum of ₹ 8,000 assuring treatment but disappeared on the day fixed for surgery.

When the matter was enquired, he gave some evasive reply for receiving the money. Therefore, the respondent initiated disciplinary proceeding. The petitioner as such accepted for having received the money from the patient and however gave hypothetical and evasive explanations.

8. In order to prove his case, the petitioner examined himself as PW.1 and no documentary evidence was marked. On the side of the respondent, no oral evidence was adduced and Ex. R1 to Ex. R 10 was marked.

9. It is an admitted fact that the petitioner was an employee in the respondent hospital. The main contention of the petitioner is that he received a sum of ₹ 8,000 from one patient by name Vijayaraghavan for security purpose, whereas the learned counsel for the respondent would argue that he received a sum of ₹ 8,000 from the said Vijayaraghavan, who was admitted for surgery, without any authority and knowledge of the respondent and upon quarrel and altercation between the petitioner and the relatives of the said patient within the premises, it was stated that the petitioner had received a sum of ₹ 8,000 assuring treatment and disappeared on the date fixed for surgery.

10. On the side of the respondent, the letter written by the said Vijayaraghavan was marked as Ex.R1. In Ex.R1, the said Vijayaraghavan has stated that the petitioner demanded a sum of ₹ 8,000 for medical expenses and hence he gave ₹ 5,000 first and on the next day, he gave ₹ 3,000 but he disappeared on the date of surgery. Ex.R2 is the copy of the explanation, given by the petitioner to the respondent, wherein the petitioner has stated that he received a sum of ₹ 8,000 from the said Vijayaraghavan and since the patient themselves brought surgical materials from their pharmacy on the date of surgery, he has returned ₹ 4,000 as cash to the mother of the said Vijayaraghavan and ₹ 4,000 as cheque to the lawyer, who is known to him well. Not satisfying the explanation submitted by the petitioner, the respondent management issued a show cause notice Ex.R3 as to why disciplinary action shall not be initiated against him, for which the petitioner submitted his explanation under Ex.R4 stating that he has not received the said amount of ₹ 8,000 from the said Vijayaraghavan as bribe and he received the said amount only for surgery expenses, as the said Vijayaraghavan is known to him. He further stated in Ex.R4 that he paid the said amount to the said Vijayaraghavan. Hence, based on the complaint given by the said Vijayaraghavan, the respondent has initiated the disciplinary proceedings against the petitioner under Ex.R6.

11. On perusal of Ex. R6, it is seen that on 8-3-2007 the enquiry was conducted against the petitioner and during the course of enquiry, one Krishnamoorthy and Neelavani, who were working in the respondent hospital,

were examined as respondent witnesses. Based on the evidence of the said witnesses, the Enquiry Officer came to the conclusion that the charges framed against the petitioner were proved.

12. It is pertinent to note that according to the respondent, based on the complaint given by Vijayaraghavan under Ex.R1, the disciplinary proceedings were initiated against the petitioner. But for the reasons best known to the respondent, the said Vijayaraghavan or his mother was not examined as witness in the said enquiry proceedings. The Enquiry Officer, only based on the evidence of the management witnesses, who were working in the respondent hospital, came to the conclusion that the charges framed against the petitioner were proved, which is not fair and proper.

13. Apart from the above, the said Vijayaraghavan has sent a letter to the respondent hospital on 8-3-2007 and the copy of the said letter has been submitted by the petitioner before this court. Though the said letter has not been marked as exhibit before this court, a perusal of the said letter would reveal that he has given a sum of ₹ 8,000 to the petitioner for safety purpose on the advise of one Jothi and on the date of surgery, since the petitioner has not come to the hospital in time, he asked the petitioner to return the said amount and hence on 2-3-2007 the petitioner returned a sum of ₹ 4,000 and the balance of ₹ 4,000 has been given to his relative Jothi on 4-3-2007. In the said letter, Vijayaraghavan has requested the respondent management not to take any action against him.

14. At this stage, the learned counsel for the petitioner filed a memo. stating that as per the order of this court, the petitioner went to Chennai and met one Baskar, General Manager of the respondent institution regarding his reinstatement, but the said Baskar refused to give continuation of service. He further stated in his memo. that though the learned counsel for the respondent has given assurance before this court to settle the matter by providing terminal benefits, the respondent management has not kept their words as assured by him before this court.

15. But the learned counsel for the respondent has endorsed that the respondent was prepared to give alternative employment without any precondition and accepted to protect the last wages drawn by the petitioner and in consideration of his past services, the respondent was also prepared to pay lump sum of ₹ 10,000 and the petitioner was advised by the General Manager to report before Dr. Suseela Rajendiran, Director of newly set up Medical College at Paiyanoor, however the petitioner did not report or he was not willing to accept the offer of the respondent management.

16. This court is handicapped in believing the version of both parties, since both parties have not filed any documentary proof to believe their version. Further as already stated the domestic enquiry conducted by the Enquiry Officer is not fair and proper, as the complaint given by Vijayaraghavan against the petitioner, has not been examined as a witness in the enquiry. The respondent has also not proved through the evidence that the petitioner has received a sum of ₹ 8,000 from the said Vijayaraghavan as bribe. Hence, this court is no other option than to grant the relief of the petitioner *i.e.* reinstatement with continuity of service. However, considering the facts and circumstances of the case, the petitioner is not entitled to get the back wages. Accordingly, this point is answered.

17. In the result, the industrial dispute is partly allowed and the respondent is hereby directed to reinstate the petitioner with continuity of service without back wages. However, there is no order as to costs.

Typed to my dictation, corrected and pronounced by me in the open court on this the 19th day of November 2010.

T. MOHANDASS,
II Additional District Judge,
Presiding Officer, Labour Court,
Pondicherry.

List of witnesses examined by the petitioner :

P.W.1 — 5-7-2010 - Senthamaraikannan

List of witnesses examined for the respondent : Nil

List of exhibits marked by the petitioner : Nil

List of exhibits marked for the respondent :

Ex. R1 — Copy of the letter, dated 2-3-2007 written by Vijayaraghavan.

Ex. R2 — Copy of the letter, dated 3-3-2007 sent by the petitioner to respondent.

Ex. R3 — Show cause notice, dated 5-3-2007 issued by the respondent.

Ex. R4 — Copy of the explanation submitted by the petitioner.

Ex. R5 — Copy of the suspension order, dated 8-3-2007.

Ex. R6 — Copy the enquiry proceeding, dated 24-3-2007.

Ex. R7 — Copy of the enquiry report, dated 3-7-2007.

Ex. R8 — Copy of the show cause notice, dated 11-7-2007.

Ex. R9 — Copy of the letter, dated 15-7-2007 sent by the petitioner.

Ex.R10— Copy of the termination order, dated 18-9-2007 to the petitioner.

T. MOHANDASS,
II Additional District Judge,
Presiding Officer, Labour Court,
Pondicherry.

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 40/AIL/Lab./J/2011, dated 25th February 2010)

NOTIFICATION

Whereas, the Award in I.D. No. 21/2005, dated 21-10-2010 of the Labour Court, Puducherry in respect of the industrial dispute raised by 95 workers represented by their President, All India Central Council of Trade Unions (AICCTU), Puducherry that the Labour Contract of Thiruvallargal M. Mani and K. Kumar in the management of M/s. ACE Glass Containers Limited, Puducherry is sham has been received;

Now, therefore, in exercise of the power conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the notification issued in Labour Department's G. O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by Secretary to Government (Labour) that the said award shall be published in the official gazette, Puducherry.

(By order)

G. MALAR KANNAN,
Joint Secretary to Government (Labour).

BEFORE THE LABOUR COURT AT PONDICHERRY

Present : Thiru T. MOHANDASS, M.A., M.L.,
II Additional District Judge,
Presiding Officer, Labour Court.

Dated, the 21st day of October 2010

I.D. No. 21/2005

The President /Secretary,
All India Central Council of Trade
Unions (AICCTU),
No. 471, Bharathi Street,
Pondicherry-1.

.. Petitioner

Versus

The Managing Director,
ACE Glass Containers Limited,
Thondamanatham,
Pondicherry.

.. Respondent

This case coming on this day for hearing before me, in the presence of Thiru P. Sankaran, counsel for the petitioner and Thiru K. Babu, counsel for the respondent and upon perusing the case records, this court made the following:

ORDER

This industrial dispute arises out of the reference made by the Government under section 10(1) (c) of the Industrial Disputes Act in G. O. Rt. No. 92/2005/Lab./AIL/J, dated 20-6-2005. The Government made the following reference:

(a) Whether the claim of the 95 workers represented by their President, All India Central Council of Trade Unions (AICCTU), Pondicherry that the Labour Contract of Thiruvallargal M. Mani and K. Kumar in the establishment of M/s. ACE Glass Containers Limited, is sham, is correct? If so, give appropriate directions.

2. Today (21-10-2010), the case was called. Respondent counsel present. Petitioners called absent. Hence this petition is dismissed for default. No costs.

Written and pronounced by me in the open court on this the 21st day of October 2010.

T. MOHANDASS,
II Additional District Judge,
Presiding Officer, Labour Court,
Pondicherry.

GOVERNMENT OF PUDUCHERRY
TRANSPORT SECRETARIAT

No. 266/Tr.Sectt./2011.

Puducherry, the 10th February 2011.

ORDER

The Ministry of Road Transport and Highways in the Government of India has decided to implement the project of providing Smart Card based Driving Licences and Registration Certificates.

2. In order to develop the Smart Card based technology usage in Motor Vehicle Department, the Government of India has entered into a MoU with National Informatics Centre, New Delhi. While using the Smart Card based technology it requires security measures and authentication of information stored in the